

**RAINE'S LAW UPHELD.**  
IT IS CONSTITUTIONAL, DECLARED  
THE COURT OF APPEALS.

Decision of the Test Case Made by Frederic G. Einsfeld of This City Without a Dissenting Voice—Text of the Opinion Written by Chief Justice Andrews.

ALBANY, May 26.—The constitutionality of the Raines Liquor Tax law was declared to-day by the Court of Appeals. This decision was reached in a test case brought by Fred G. Einsfeld in behalf of the people against the New York city Excise Board. It was an appeal from a judgment and order of the Appellate Division of the First Department rendered in April last, which affirmed a judgment and order entered on the decision of Justice Pyratt at Special Term on March 20 last, which dismissed the writ of certiorari granted on March 24 and confirmed the proceedings of the New York city Excise Board, which was sought to be reviewed by the writ.

Mr. Einsfeld is the proprietor of a saloon at 29 Broadway street in New York city. On March 23 he applied to the New York Excise Board for a license to conduct his business for a period of one year thereafter. The application was refused, solely on the ground of want of power in that body under the Raines Liquor Tax law there was no power in the Board to issue a license for a term expiring later than April 30, 1896. That was the date upon which all Excise Boards were swept out of existence by the Raines law. Thereupon Mr. Einsfeld presented to the Court a petition for writ of certiorari.

Justice Pyratt, entertaining a doubt as to the constitutionality of the law, concluded that he would not declare the enactment of the Legislature unconstitutional. The only question presented on this appeal was as whether or not the act was constitutional.

The opinion was written by Chief Judge Andrews, all the Judges concurring. The opinion says:

"The sole question involved in this appeal is the constitutionality of the Raines law. The question of constitutionality was passed upon by the Appellate Division of the First Department. This question is considered in the opinion of that department and the decision from which we quote is taken. In so far as it goes to the constitutionality of the law, it adds little to the very evident and satisfactory opinion."

"First Article, III, section 20 of the Constitution provides that 'the right of the people to the free exercise of their franchise shall not be denied or abridged by any law.'

"It is insisted that section 13 of the act of 1896, which provides 'that one-tenth of the revenues derived under this law shall be paid to the State for funding the same,' shall be paid to the Treasurer of the State to the credit of the general fund as a part of the general tax revenue of the State. The amount of such tax, however, less the amount allowed for collecting the same, shall be turned to the town or city in which the traffic was carried on, or in which the roads were improved, and shall be paid by the County Treasurer of such county, and by the Special Deputy Commissioners to the State, or to the commissioners of the town or city office of such city, and such revenues shall be appropriated and expended by such town or city in such manner as the town or city may direct, provided that the appropriation and expenditure of sums received for excise taxes, and other taxes in such other manner as may hereafter be provided by law, in the discretion of the commissioners, shall not affect the disposition of the revenues under this section, excepting the disposition made by the act of two-thirds of the revenue to town and city purposes."

"Article III, section 13 of the Raines law provides that 'one-tenth of the revenues derived under this section of the Constitution, and it is being insisted that the act did not require a town or city to make the money collected therefrom, less the amount allowed for collecting the same, shall be turned to the town or city in which the traffic was carried on, or in which the roads were improved, and shall be paid by the County Treasurer of such county, and by the Special Deputy Commissioners to the State, or to the commissioners of the town or city office of such city, and such revenues shall be appropriated and expended by such town or city in such manner as the town or city may direct, provided that the appropriation and expenditure of sums received for excise taxes, and other taxes in such other manner as may hereafter be provided by law, in the discretion of the commissioners, shall not affect the disposition of the revenues under this section, excepting the disposition made by the act of two-thirds of the revenue to town and city purposes.'

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"The fact that the purpose for which an appropriation is made is public does not withdraw it from the intention of the framers of the Constitution, since it is the public welfare which is to be promoted, and it may be lost through public withdrawal of this section of the Constitution.

"Twenty-five years have elapsed since the constitutional provision now in question first became part of the organic law, and during that long period this practice under statutes which were then in force has been uniformly followed, and has never hitherto been challenged as a violation of the Constitution. Those statutes, and all acts and appointments made in pursuance of them, the statutes of the state of 1896, and were even more subject to the constitutional entrapment made by the act of 1896, than the revenue laws of 1862, and the construction of this part of the excise tax revenues is without doubt, we think, for a local purpose within Article III, section 20 of the Constitution."

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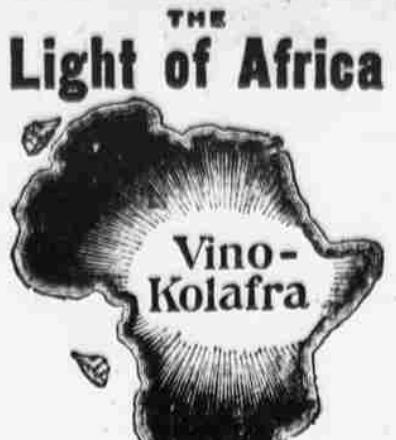
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It uplifts, brightens, dissipates Weariness and Fatigue, imparts Strength and Endurance, hastens Convalescence, reinforces the Heart, tones the Nerves, and deepens the Breathing. To the Aged and Vigor. Palatable, Refreshing, Sustaining, Non-intoxicating, no bad after-effect.

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\$4.00 TAN SHOES AT \$2.50.  
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